

### **REMARKS**

Applicant has reviewed the Office Action dated January 4, 2006 (hereinafter "Office Action"), and the references cited therewith.

Claims 1, 3, 8, 10, 11, 15, 18, 19, 20, and 21 are currently amended. Claim 7 is canceled. Claims 24, 25, and 26 are added. As a result, claims 1-6 and 8-26 are now pending in this application. Applicant submits that the amendments and additions to the claims are fully supported by the patent application as originally filed, and no new matter has been added.

Applicant hereby respectfully requests further examination and reconsideration of the application in view of the following remarks.

#### **Objection to the Drawings**

The Office Action objected to the drawings as failing to comply with 37 C.F.R. 1.84(p)(5). (*See* Office Action, page 2). The drawings have been amended to address the issues noted in the Office Action, among others. REPLACEMENT SHEETS have been submitted herewith. Applicant respectfully submits that no new matter has been introduced by the amendments to the drawings.

In FIGS. 3, 4, 5A, and 5B, the reference character 184 has been added to conform such figures to the patent application as originally filed. Support for the addition of reference character 184 can be found at least at page 6, line 31 and page 7, line 4 of the application.

In addition to reference character 184 being added, the following drawing amendments have also been made. In FIG. 3, the reference character 160 referring generally to the figure as a whole has been replaced with reference character 110 to correctly identify the lead, as identified at least at page 5, lines 24-25 of the application. In FIG. 4, the reference character 118 referring to the distal-most end of FIG. 4 has been replaced with reference character 117 to correctly identify the fluoromarker, as identified at least at page 6, line 27 of the application. In FIGS. 5A and 5B, the reference character 118 has been replaced with reference character 117 to correctly identify the fluoromarker, as identified at least at page 6, line 27 of the application.

In light of the foregoing amendments, Applicant respectfully requests withdrawal of this basis of objection to the drawings.

Objection to the Specification

The specification was objected to due to an informality. Applicant has amended the specification to overcome this objection. Reconsideration and withdrawal of this basis of objection is respectfully requested.

§112 Rejection of the Claims

Claims 1-23 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Applicant has amended such claims. Reconsideration and withdrawal of this basis of rejection is respectfully requested.

§102 Rejection of the Claims

Claims 1-3, 5-6, 8-9, 11-12, 14-21 and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Janke et al. (U.S. Patent No. 6,097,986). Applicant respectfully traverses such rejections.

Anticipation requires that the claimed subject matter be *identically* disclosed in the prior art. *In re Arkley*, 172 USPQ 524, 526 (CCPA 1972)(emphasis added). The reference relied upon must teach or suggest *all* the elements and/or limitations of the claims. *See In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA1970)(stating “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art”)(emphasis added).

“In constructing a rejection based on anticipation, the Examiner must identify the elements of the claims of the application, determine their meaning in light of the specification and prosecution history, and identify the corresponding elements disclosed in the allegedly anticipating reference.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir.1984).

*Claims 1-6 and 24:*

Applicant submits the Office Action has failed to identify in the cited reference (Janke) corresponding elements to Applicant’s claimed elements and/or limitations, as required by *Lindemann* at page 485. Applicant further submits that not all claimed elements and/or

limitations can be found in Janke, as required by *In re Arkley* at page 526. For these reasons, among others, Applicant respectfully requests withdrawal of the rejection of claims 1-6 and 24.

*Claim 1:*

Not all claimed elements and/or limitations of Applicant's claims 1-6 and 24 can be found in Janke. Applicant's claim 1 recites, in part, "[a] lead assembly comprising . . . a housing portion disposed near [a] distal end of [a] lead body, the housing portion including a guide adapted to guide [a] drive mechanism disposed on an inner surface thereof." As recognized by the Office Action, "Janke does not disclose . . . a housing portion disposed near a distal end of a lead body, [where] a guide is disposed on an inner surface of a housing portion, and [the] guide drives a drive mechanism." (Office Action, page 5). Rather, Janke recites "a distal tip electrode is provided including an electrode tip, a mesh screen [is] disposed at a distal end of the electrode tip." (Col. 2, lines 61-64). Janke goes on to recite "[i]n addition, the lead 310 has a guide groove 370 . . . formed by puncturing a hole within the mesh screen." (Col. 5, lines 59-61; *see also* col. 6, lines 61-63). Alternatively, Janke recites "[t]he lead 10 . . . includes a guiding bar 70 . . . [e]xtending across the diameter of the tip." (Col. 7, lines 60-61).

Because not all elements and/or limitations of claim 1 can be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 1. Claims 2-6 and 24 are dependent on claim 1 and are patentable over Janke for the reasons stated above, in addition to the elements and/or limitations in such claims.

*Claim 3:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 1-6 and 24 (of which claim 3 is included), Applicant cannot find (nor has the Office Action identified) in Janke a lead assembly "wherein the piston has a recess wrapped around an outer surface thereof such that one or more portions of the recess are separated from one another by a non-recessed portion, and at least a portion of the first portion of the fixation helix is disposed within the recess," as recited in Applicant's claim 3. Rather, as pointed out by the Office Action, Janke illustrates a piston having a single, non-separated recess to which a first portion of a fixation helix is coupled. (*See* Office Action, page 4; *see also* FIGS. 2A, 3A, 4A,

and 5A). As shown in such FIGS. of Janke, the successive turns of the first portion of the fixation helix are substantially adjacent one another. (*Id.*).

Because all elements and/or limitations of claim 3 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 3. Claims 4-6 are dependent on claim 3 and are patentable of Janke for the reasons stated above, in addition to the elements and/or limitations in such claims.

*Claim 5:*

In addition to the foregoing reasons set forth supporting a finding of patentability of claims 1-6 and 24 (of which claim 5 is included) and claim 3 specifically (from which claim 5 depends), Applicant cannot find in Janke a lead assembly “wherein the recess has a first width and the first width is less than a diameter of the first portion of the fixation helix,” as recited in Applicant’s claim 5. The Office Action asserts that FIGS. 2A, 3A, 4A, and 5A of Janke discloses . . . a recess ha[ving] a first width and [the] first width is less than a diameter of a first portion of a fixation helix.” (Office Action, page 4). Applicant submits that such Office Action assertion not only fails to meet the elements and/or limitations of Applicant’s claim 5, but it also evidences a failure by the Office Action to identify the Applicant’s claimed elements and/or limitations and determine their meaning from the specification, as required by *Lindemann Maschinenfabrik GmbH* at page 485.

The meaning of the limitation “first width” as used in claim 5 may be ascertained from, among other places, page 5, lines 13-14 and FIG. 2 of Applicant’s application. As illustrated in FIG. 2, for example, “first width” refers to the width of a recess portion into which a portion of a fixation helix may be disposed within. In contrast to what is claimed by Applicant, Janke illustrates a recess portion having a width greater than a diameter of the first portion of the fixation helix, as evidenced by the fact that a plurality of helical turns are supported by a single recess portion.

Because all elements and/or limitations of Applicant’s claim 5 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 5.

*Claims 8-14 and 25:*

Applicant submits that not all claimed elements and/or limitations can be found in Janke, as required by *In re Arkley* at page 526. For this reason, among others, Applicant respectfully requests withdrawal of the rejection of claims 8-14 and 25.

*Claim 8:*

Applicant cannot find in the cited portions of Janke, “[a] lead assembly comprising . . . a housing disposed near the distal end of the lead body; . . . and a guide disposed within an inner surface of the housing,” as recited in Applicant’s claim 8. The Office Action, however, asserts that the foregoing claimed subject matter can be found at “FIG. 4A; column 7, last line-column 8, lines 1-4.” (Office Action, page 4). Applicant respectfully traverses such Office Action assertion and hereby incorporates by reference the relevant arguments stated above with respect to claim 1 (i.e., Janke recites a guide groove formed by puncturing a hole within a mesh screen, the screen disposed at a distal end of a distal tip electrode or alternatively, a guiding bar extending across the diameter of the tip) for support.

Because not all elements and/or limitations of claim 8 can be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 8. Claims 9-14 and 25 are dependent on claim 8 and are patentable over Janke for the reasons stated above, in addition to the elements and/or limitations in such claims.

*Claim 11:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant’s claims 8-14 and 25 (of which claim 11 is included), Applicant cannot find (nor has the Office Action identified) in Janke a lead assembly “wherein the fixation helix is coupled with the piston along a recess extending inward from an outer surface of the piston, a first portion of the recess separated from a second portion of the recess by a non-recessed piston portion,” as recited in Applicant’s claim 11. To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 3 (i.e., Janke illustrates a piston having a single, non-separated recess).

Because all elements and/or limitations of claim 11 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 11.

*Claim 12:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 8-14 and 25 (of which claim 12 is included), Applicant cannot find in the cited portions of Janke a lead assembly "wherein the fixation helix has an inner diameter and the piston has an outer diameter, and the outer diameter is greater than the inner diameter prior to coupling the fixation helix with the piston," as recited in Applicant's claim 12. The Office Action, however, broadly asserts that the foregoing subject matter can be found at "FIGS. 2A, 3A, 4A, and 5A; column 5, lines 44-45." (Office Action, page 4). Applicant respectfully traverses such Office Action assertion and respectfully submits that nowhere in the cited portions of Janke can the identical subject matter as claimed by Applicant be found, as required by *In re Arkley* at page 526.

Because all elements and/or limitations of claim 12 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 12.

*Claims 15-18 and 26:*

Applicant submits that not all claimed elements and/or limitations can be found in Janke, as required by *In re Arkley* at page 526. For this reason, among others, Applicant respectfully requests withdrawal of the rejection of claims 15-18 and 26.

*Claim 15:*

Not all claimed elements and/or limitations of Applicant's claims 15-18 and 26 can be found in Janke. Applicant's claim 15 recites, in part, "[a] lead assembly comprising . . . a housing including a guide therein, the guide extending from an inner surface of the housing and adapted to interact with [a] first portion of [a] fixation helix." To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 1 (i.e., the Office Action admits Janke does not disclose such claimed subject matter; rather, Janke recites a guide groove formed by puncturing a hole within a mesh screen, the screen disposed at a distal

end of a distal tip electrode or alternatively, a guiding bar extending across the diameter of the tip).

Because not all elements and/or limitations of claim 15 can be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 15. Claims 16-18 and 26 are dependent on claim 15 and are patentable over Janke for the reasons stated above, in addition to the elements and/or limitations in such claims.

*Claim 18:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 15-18 and 26 (of which claim 18 is included), Applicant cannot find (nor has the Office Action identified) in Janke a lead assembly "wherein the active fixation helix is mechanically coupled with the piston via one or more recessed groove portions separated by a non-recessed piston portion," as recited in Applicant's claim 18. To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 3 (i.e., Janke illustrates a piston having a single, non-separated recess).

Because all elements and/or limitations of claim 18 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 18.

*Claims 19-23:*

Applicant submits that not all claimed elements and/or limitations can be found in Janke, as required by *In re Arkley* at page 526. For this reason, among others, Applicant respectfully requests withdrawal of the rejection of claims 19-23.

*Claim 19:*

Not all claimed elements and/or limitations of Applicant's claims 19-23 can be found in Janke. Applicant's claim 19 recites, in part, "[a] method comprising . . . providing a lead assembly including . . . a housing including a guide extending from an inner surface thereof . . . and longitudinally driving [a] fixation helix with the drive mechanism, including moving portions of the fixation helix along the guide." To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 1 (i.e., the Office Action

admits Janke does not disclose such claimed subject matter; rather, Janke recites a guide groove formed by puncturing a hole within a mesh screen, the screen disposed at a distal end of a distal tip electrode or alternatively, a guiding bar extending across the diameter of the tip).

Because not all elements and/or limitations of claim 19 can be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 19. Claims 20-23 are dependent on claim 19 and are patentable over Janke for the reasons stated above, in addition to the elements and/or limitations in such claims.

*Claim 20:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 19-23 (of which claim 20 is included), Applicant cannot find (nor has the Office Action identified) in Janke a method "further comprising recessing at least a part of the first portion of the fixation helix within the piston such that a non-recessed portion of the piston separates successive turns of the fixation helix," as recited in Applicant's claim 20. To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 3 (i.e., Janke illustrates a piston having a single, non-separated recess).

Because all elements and/or limitations of claim 20 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 20.

*Claim 21:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 19-23 (of which claim 21 is included), Applicant cannot find (nor has the Office Action identified) in Janke a method "further comprising recessing approximately 1/3 to 1/2 of a diameter of the fixation helix within the piston such that successive turns of the fixation helix are separated by a non-recessed piston portion," as recited in Applicant's claim 21. To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 3 (i.e., Janke illustrates a piston having a single, non-separated recess).

Because all elements and/or limitations of claim 21 cannot be found in Janke, Applicant respectfully requests withdrawal of this basis of rejection of claim 21.



§103 Rejection of the Claims

Claims 4, 7, 13 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Janke et al. (U.S. Patent No. 6,097,986) as applied to claims 1, 3, 8 and 19 above, and in view of Miller (U.S. Patent No. 4,628,943). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Janke et al. (U.S. Patent No. 6,097,986), alone. Applicant respectfully traverses such rejections and submits that the Office Action has failed to make out a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three criteria must be met.

First, there must be some suggestion or motivation, either in the cited reference(s), or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. MPEP § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d (BNA) 1438 (Fed. Cir. 1991)). According to *In re Lee*, “there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant.” 61 USPQ2d 1430 (Fed. Cir. 2002)(citing *In re Fine*). As further stated by *In re Lee*, the “factual question of motivation is material to patentability, and [*can*] not be resolved on subjective belief and unknown authority.” *In re Lee* (emphasis added).

“We do not ‘pick and choose among the individual elements of assorted prior art references to recreate the claimed invention,’ but rather, we look for ‘some teaching or suggestion in the references to support their use in the particular claimed combination.’” *Symbol Technologies, Inc. v. Opticon, Inc.*, 935 F.2d 1569, 19 USPQ2d 1241 (Fed. Cir. 1991). Motivation to combine requires desirability, not merely a trade-off. Trade-offs often concern what is feasible, not what is necessarily desirable. Motivation to combine requires the latter. *Winner International Royalty Corp. v. Wang*, 202 F.3d 1340, 53 USPQ2d 15080 (Fed. Cir.), *cert. denied*, 530 US 1238 (2000). The fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990); MPEP § 2143.01.

A factor cutting against a finding of motivation to combine or modify the prior art is when the prior art teaches away from the claimed combination. A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention

must be considered. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

Second, the prior art reference(s) must teach or suggest all of the claim elements and/or limitations. MPEP § 2142.

Third, there must be a reasonable expectation of success. MPEP § 2142.

*Claims 4 and 7:*

Applicant submits the Office Action has failed to make out a *prima facie* case of obviousness for claims 4 and 7 because, among other things, not all claim elements and/or limitations can be found in the cited references (Janke and Miller) individually or in combination, as required by MPEP § 2142, and because there is legally insufficient motivation to combine Janke and Miller, as required by *In re Lee*.

*Claim 4:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 1-6 and 24 (of which claim 4 is included), Applicant cannot find in the cited portions of Janke nor Miller a lead assembly "wherein [a] recess has a helical shape," as recited in Applicant's claim 4. Claim 4 depends from claim 3, which recites in part "[a] piston has [the] recess wrapped around an outer surface thereof such that one or more portions of the recess are separated from one another by a non-recessed portion, and at least a portion of [a] first portion of [a] fixation helix is disposed within the recess." Thus, Applicant's claim 3 conjunctively recites a piston having a helical-shaped recess wrapped around an outer surface thereof such that one or more portions of the helical-shaped recess are separated from one another by a non-recessed portion, and at least a portion of a first portion of a fixation helix is disposed within the helical-shaped recess.

The Office Action recognizes that Janke "does not disclose a recess ha[ving] a helical shape," however, asserts that "Miller discloses a recess ha[ving] a helical shape [at] (FIG. 2, element 62)." (Office Action, page 5). Applicant submits that such cited portions of Miller do not recite the claimed subject matter admittedly not disclosed in Janke (e.g., a helical-shaped recess) nor do they recite the claimed position of the recess. According to Miller, "[a] securing

device 36 is rotated through [a] passageway 62 through an opening 64 in an insulative tip member 66 fixed about [a] plug 60.” (Col. 6, lns. 15-19). That is to say, element 62 is a passageway in plug 60 through which the securing device 36 may be rotated, not a helical-shaped recess wrapped around an outer surface of a piston into which a fixation helix may be disposed for support, as claimed by Applicant.

Furthermore, Applicant submits there is no legally sufficient motivation to combine the teachings of Janke with the teachings of Miller to make the specific combination that was claimed, as required by *In re Lee*. As one example, Janke teaches against being combined with Miller. Janke recites “there is a need for a lead having an electrode for positioning within the atrium or ventricle that allows for tissue ingrowth [as] [t]issue ingrowth further enhances the electrical performance of the lead [and] the lead and electrodes are further stabilized within the heart as a result of tissue ingrowth.” (Col. 2, lines 12-17; *see also* col. 3, lines 37-38). To this end, Janke recites leads having a “mesh screen [that] can entirely cover an end surface of the electrode tip, or [that can cover] a portion of the end surface in the form of an annular ring.” (Col. 2, lines 36-39). In contrast to Janke, Miller recites disposing of a fluid tight plug made of an insulative material at the lead distal end, wherein the fluid tight plug includes a single lumen for only allowing passage therethrough by a securing device. (Col. 6, lines 10-19; FIG. 2).

As another example, the Office Action appears to pick and choose among individual elements of assorted references (i.e., Janke and Miller) to recreate the claimed invention without some teaching or motivation in the references to support their use in the particular claimed combination, as prohibited by *Symbol Technologies, Inc.* 935 F.2d 1569. Motivation to combine requires desirability, not merely a trade-off. *Winner International Royalty Corp.*, 202 F.3d 1340. The Office Action asserts that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Janke . . . as taught by Miller so that a sharpened distal end of the securing device can be easily and quickly implanted into tissue of the ventricle or atrium of a heart.” (Office Action, page 5). Applicant points out the Office Action also asserts that “Janke discloses a lead body . . . a piston movable disposed within [the] lead body . . . a fixation helix supported by/coupled with [the] piston at a first portion . . . [the] first portion of [the] fixation helix forming a drive mechanism [ ] that advances/longitudinally advances and retracts [the] fixation helix/rotating the fixation helix.” (Office

Action, page 3). That is to say, the Office Action appears to assert that Janke, alone, discloses a sharpened distal end of a securing device that can be easily and quickly implanted into a subject's heart. Accordingly, Applicant submits the Office Action's asserted motivation includes one or more mere trade-offs, not desirability as required by *Winner International Royalty Corp.*

Because neither Janke nor Miller teaches or suggests all of the claimed subject matter of Applicant's claim 4, and further because no legally sufficient motivation to combine such references has been provided, Applicant respectfully requests withdrawal of this basis of rejection of claim 4.

*Claim 7:*

Claim 7 has been canceled thereby rendering the rejection of such claim moot. Applicant, however, respectfully reserves the right to traverse the Office Action assertions used to reject claim 7, pending the outcome of future Office communications.

*Claims 10 and 13:*

Applicant submits the Office Action has failed to make out a *prima facie* case of obviousness for claims 10 and 13 because, among other things, not all claim elements and/or limitations can be found in the cited references (Janke and Miller) individually or in combination, as required by MPEP § 2142.

*Claim 10:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 8-14 and 25 (of which claim 10 is included), Applicant cannot find in Janke nor Miller a lead assembly "wherein the helical guide is a segmented helical guide," as recited in Applicant's claim 10. The Office Action recognizes that Janke "does not disclose a helical guide is a segmental helical guide;" however, asserts that Janke "is capable of having a segmented helical guide for ease of directing movement of the helix during travel." (Office Action, page 6). As held in *In re Mills*, the fact that Janke is capable of being modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. 916 F.2d 680. Applicant submits that without the use of the Applicant's disclosure, one of ordinary

skill in the art would not have been motivated to modify Janke to produce the subject matter of Applicant's claim 10.

In addition, Applicant respectfully traverses the single reference rejection of claim 10 under 35 USC § 103 since not all of the recited elements and/or limitations of the claim are found in Janke. Since all the elements and/or limitations of the claim are not found in the reference, Applicant assumes that the Examiner is taking official notice of the missing elements. Applicant respectfully objects to the taking of official notice with a single reference obviousness rejection and, pursuant to MPEP § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite reference(s) in support of this position.

Reconsideration and withdrawal of this basis of rejection of claim 10 is respectfully requested.

*Claim 13:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 8-14 and 25 (of which claim 13 is included), Applicant cannot find in Janke nor Miller a lead assembly "wherein the fixation helix is coupled with the piston along a helical recess within the piston," as recited in Applicant's claim 13. To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 4 (i.e., the cited portions of Miller do not recite the claimed subject matter admittedly not disclosed in Janke).

Because all elements and/or limitations of claim 13 cannot be found in Janke nor Miller, Applicant respectfully requests withdrawal of this basis of rejection of claim 13.

*Claim 22:*

In addition to the foregoing grounds set forth supporting the patentability of Applicant's claims 19-23 (of which claim 22 is included), Applicant cannot find in Janke nor Miller a method "further comprising recessing at least a part of the first portion of the fixation helix within a helical groove of the piston," as recited in Applicant's claim 22. To this end, Applicant hereby incorporates by reference the relevant arguments stated above with respect to claim 4 (i.e., the cited portions of Miller do not recite the claimed subject matter admittedly not disclosed in Janke).

Because all elements and/or limitations of claim 22 cannot be found in Janke nor Miller, Applicant respectfully requests withdrawal of this basis of rejection of claim 22.

Serial Number: 10/673,926

Filing Date: September 29, 2003

Title: EXTENDABLE AND RETRACTABLE LEAD WITH AN ACTIVE FIXATION ASSEMBLY

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3276 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

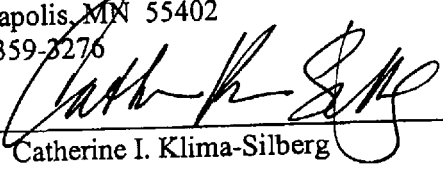
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